HONOURABLE SRI JUSTICE B. SESHASAYANA REDDY

WRIT PETITION No. 9452 OF 2005

Dated 01-12-2005

Between :

1. M/s Babu Oils Private Ltd., represented by its Director Muttamsetti Naga Sudheer, son of Laxmana Shiva Prasad, Hindu, aged about 30 years, Business, resident of Door No.11-49-39, Shivalayam Street, Vijayawada-520 001, Krishna District.

….Petitioner.

And:

1. The Government of Andhra Pradesh, represented by its Principal Secretary, Municipal Administration Department, Secretariat, Hyderbad, A,P. and others.

…Respondents.

ORDER :

This writ petition has been filed by M/s Babu Oils Private Limited represented by its Director assailing the action of the respondents in preventing the petitioner-Company from carrying on retail business in Vijayawada I Town area.

2. Muttamsetti Naga Sudheer has sworn to the writ affidavit.

The case of the writ petitioner as set out in the writ petition in brief is that :

The petitioner-Company is conducting retail business in oils for the last 30 years at Sivalayam street, Vijayawada-I Town under a valid license. . Since there are several wholesale markets dealing in various goods in I Town area, there is heavy traffic of vehicles which is causing inconvenience to the smooth flowing of the traffic as well as creating other related problems. The wholesale association constructed a commercial complex at Gollapudi. The Vijayawada Guntur Tenali Mangalagiri

Urban Development Authority-2nd respondent negotiated with the wholesale traders association to shift the wholesale business from I town area to Gollapudi so that the traffic and other related problems could be solved. Various meetings were held with regard to shifting of wholesale business to the newly constructed complex. Ultimately, the wholesale Traders Association consented to shift their business to newly constructed shops at Gollapally. The 2nd respondent issued a notice dated 31-3-2005 directing the wholesale traders who have been allotted shops in Gollapudi market to shift immediately failing which the District Administration would take coercive steps. The petitioner-Company asserts that it deals with the retail business and therefore, it is not under obligation to shift its business to the newly constructed shopping complex at Gollapudi.

3. The 2nd respondent filed Counter-affidavit. One V. Durga Das has sworn to the Counter-affidavit.

The circumstances under which new shopping complex came up at Gollapudi have been detailed in the Counter-affidavit. It is suffice to refer paragraphs 3 and 4 of the Counter-affidavit and they are thus :

> "3. It is submitted that the petitioners are Members of Vijayawada Wholesale Commercial Complex Members Welfare Society. The said society got registered under the Societies Registration Act as Society No.92/83 with the sole object of creating facilities for the shifting of the Wholesale Commercial shops and business establishments to the out skirts of the Vijayawada city. It is further submitted that the above said society contains more than 400 members and the Society does mainly trading in pulses, Rice, Sugar, Tamarind, Edible oils, Salt and Onions etc., in the I town area of the Vijaywada city. The area is covered with the narrow roads, lanes and causing lot of traffic congestion. As a sequence to the fast urbanization, growth in the population etc., the District Administration is shifting the shops and business establishments to the outskirts of the city."
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> "4. It is further submitted that the above said Society made several representations to the State Government and to this authority to consider change of land use to the society land and exempt their land from the provisions of U.L. (C&R) Act, 1976 so that they will shift their wholesale business from I town to Gollapudi. The association has constructed shops and godowns at Gollapudi, Krishna District with a view to shift the trading of wholesale market in Vijayawada I Town to Gollapudi outskirts of the city so as to reduce the traffic congestion in the best interest of the public. The Government vide G.O. Ms. No.330, Revenue (UCI) Department dated 14-06-2002 issued Urban Land Ceiling exemption to the land purchased by the Association to facilitate shifting of this trade to Gollaupdi Market Complex situated at the outskirts of the city limits. The Government also vide G.O. Ms. No.557, M.A., dated 31-12-2002 issued orders converting the land belongs to the Association from residential to Commercial with a sole objective to shift the wholesale business activity and related activities to

> Gollapudi Market Complex. This authority played a facilitator role and approved the layout with 40" wide roads and providing sufficient parking facility and maintaining greenery and lungs space for the entire complex at Gollapudi. The infrastructure was laid by the Association with the supervision by the authority. The Authority also laid 80'-0" approach road from NH-5 for easy access of heavy vehicles. The Hon'ble Chief Minister of Andhra Pradesh also inaugurated the said complex for operation."

4. Heard the learned counsel for the petitioner and the learned standing counsel for the 2nd respondent and the counsel appearing for the 5th respondent.

5. The learned standing counsel for the 2nd respondent submits that the petitioner is a member of the wholesale commercial complex Merchants Welfare Association and therefore, he is bound by the undertaking given by the association.

6. The grievance of the petitioner is that though it is not a wholesale dealer, the 2nd respondent issued notice dated 31-3-2005 directing it to shift its business to the newly constructed shopping complex at Gollapudi. If it is the case of the petitioner that it deals in retail business, such is the situation, it is always open to the petitioner to submit representation to the 2nd respondent authorities with necessary proof and thereupon, the 2nd respondent authority has to pass appropriate orders.

7. In that view of the matter, I deem it appropriate to dispose of the writ petition giving liberty to the petitioner to submit representation to the 2nd respondent-authority with necessary proof stating that it deals only in retail business and not in whole sale business and thereupon the 2nd respondent-authority has to pass necessary orders. No costs.

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Justice B. SESHASAYANA REDDY

Date :01-12-2005

Dvs

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